

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

STB DOCKET NO. AB-1066X

**CENTRAL ILLINOIS RAILROAD COMPANY
DISCONTINUANCE OF SERVICE EXEMPTION
IN PEORIA COUNTY, IL**

**MOTION FOR CLARIFICATION
AND
MOTION TO COMPEL**

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October 10, 2005

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Comes now Pioneer Industrial Railway Company (“PIRY”), and respectfully moves that the Surface Transportation Board (“Board”) clarify the decision made in its Notice of September 30, 2005 regarding Central Illinois Railroad Company’s Motion to Reject Notice of Intent to File an Offer of Financial Assistance, and to compel Central Illinois Railroad Company (“CIRY” or the “Petitioner”) to provide the information required pursuant to PIRY’s Notice of Intent to File an Offer of Financial Assistance.

On September 12, 2005, PIRY filed a Notice of Intent to File an Offer of Financial Assistance in this proceeding. The Petitioner responded with a Motion to Reject Notice of Intent to File an Offer of Financial Assistance (“OFA”), on September 15, 2005, prematurely arguing that PIRY should not be permitted to make an OFA. Since then, CIRY has failed to provide any of the requested information.

Before PIRY had an opportunity to respond to CIRY’s Motion, the Board published the Notice of Exemption on September 30, 2005, in which it held that “Any filings related to these

requests [OFA's] will be considered in the decision on the merits," and that PIRY's Notice and CIRY's Motion "will also be considered in the decision on the merits."

Petitioner's Motion serves no purpose other than as a ploy to give CIRY an excuse to evade its legal obligation to provide the required information. As the Board stated in the Notice, CIRY asked (improperly, of course, in PIRY's view) for a "waiver" of any OFA's. Since neither PIRY, nor any other party, has yet made an Offer of Financial Assistance, the Motion is both premature, and duplicitous. Given the Board's decision to rule on the substantive issue of the availability of Offers of Financial Assistance when a final decision is rendered, failing to provide the required information in the interim works a substantial unfair prejudice on potential offerors, as they would lack the facts necessary to make an informed decision regarding a n OFA, and the Board would lack material facts needed to evaluate such an offer. Compelling compliance, on the other hand, will not unfairly prejudice the Petitioner's position in any way, and the information obtained may well be useful to the Board in determining the merits of this proceeding.

Given the fact that the Board did not grant CIRY any waiver of its obligation to provide potential offerors with the information required pursuant to a Notice of Intent to File an Offer of Financial Assistance, PIRY respectfully requests that the Board enter an Order compelling CIRY to comply with its obligation and provide the required information.

PIRY also asks that the Board clarify its decision as to the procedure for evaluating this matter on the merits. Since the Motion is duplicitous to the Request for Waiver, PIRY suggests that the Board reject the Petitioner's Motion and set a procedural schedule for the Waiver Request. In the alternative, PIRY asks that the Board consolidate the question, and permit PIRY a reasonable time to respond to the Motion/Request.

CONCLUSION

Without the requested relief, CIRY will likely continue to ignore its obligation to provide the required information, and PIRY will be unable to intelligently prepare its contemplated Offer of Financial Assistance, and the Board will be unable to intelligently evaluate it. CIRY suffers no unfair prejudice to its position by complying with its obligations.

Accordingly, PIRY requests that the Board compel CIRY to promptly furnish the information required pursuant to PIRY's Notice of Intent to File an Offer of Financial Assistance, and clarify its decision as to CIRY's Motion to Reject Notice of Intent to File an Offer of Financial Assistance.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I, Daniel A. LaKemper, hereby certify that on this 10th day of October, 2005, copies of the foregoing Motion for Clarification and Motion to Compel have been served by first class mail, postage prepaid, or by more expeditious means of delivery upon all parties of record to this proceeding identified on the Surface Transportation Board's website.

A handwritten signature in black ink, appearing to read "Daniel A. LaKemper", written in a cursive style.

Daniel A. LaKemper